

Federal Emergency Management Agency, DHS

§ 11.51

memorandum describing the circumstances and stating the reasons for the grant of a waiver or suspension.

(j) *Accrual of interest and penalty.* Interest and penalty will accrue on delinquent FEMA debts until FEMA receives payment at the address designated by the ACO or the ACO's designee.

[63 FR 1067, Jan. 8, 1998]

§ 11.49 Omission not a defense.

Failure to comply with any standard prescribed in 4 CFR chapter 11, or in this subpart shall not be available as a defense to any debtor.

§ 11.50 Standards for compromise of debts.

(a) *Compromise.* (1) A debt may be compromised if:

(i) The debtor is not able to pay the full amount within a reasonable period of time;

(ii) If the debtor refuses to pay the debt in full and the Agency is unable to enforce collection within a reasonable time by enforced collection proceeding;

(iii) If there is real doubt concerning the Agency's ability to prove its case in court for the full amount claimed;

(iv) If the cost of collecting the debt does not justify the enforced collection of the full amount;

(v) If, in connection with statutory penalties or forfeitures established as an aid to enforcement and to compel compliance, the Agency's enforcement policy will be adequately served by acceptance of the sum to be agreed upon; or

(vi) For other reasons deemed valid by the ACO after consultation with the General Counsel. The Standards set forth in 4 CFR 103.3 through 103.9 should be used.

(2) *Inability to pay.* If a debtor is unable to pay the full amount of the debt within a reasonable time or if the debtor refuses to pay and the Government is unable to collect the amount of the debt through enforcement proceedings then the Agency may compromise the claim either in whole or in part. The ACO may require that the debtor provide sworn information as to assets, actual or potential sources of income, liabilities and other financial data. The standards set forth in the GAO, Depart-

ment of Justice guidelines prescribed in 4 CFR 103.2 should be used.

(3) Compromises payable in installments will not normally be permitted by the Agency only if the debtor shows that full, immediate payment is impossible.

(4) *Litigative probabilities.* If there is a *bona fide* dispute as to facts or if there is a valid legal defense raised which may limit or eliminate the possibility of recovery, then the Agency Collections Officer may, after receiving a legal analysis from the General Counsel, compromise the action in whole or in part.

(b) *Documentary evidence of compromise.* No compromise of a debt shall be final or binding on the Agency unless it is in writing and signed by the appropriate officer who has authority to compromise the claim pursuant to this subpart.

(c) *Authority.* Only the ACO may compromise debts of more than \$2,500. Debts of \$2,500 or less may be compromised by the ACO or the DCO. Debts exceeding \$100,000 or such other limit prescribed by the Attorney General in accordance with 31 U.S.C. 3711(a)(2) may be compromised only after approval by the Department of Justice in accordance with 4 CFR 103.1(b).

[49 FR 38267, Sept. 28, 1984, as amended at 53 FR 47212, Nov. 22, 1988; 57 FR 54715, Nov. 20, 1992]

§ 11.51 Standards for suspension or termination of collection.

(a) *Suspension of collection action.* (1) Collection action shall be suspended temporarily on a debt when the debtor cannot be located after diligent effort but there is reason to believe that future collection action may be sufficiently productive to justify periodic review and action on the claim, making consideration for its size and the amount which may be realized. Collection action may be suspended temporarily on a debt when the debtor owns no substantial equity in realty and is presently unable to make payment on the Agency's debt or effect a compromise, but his future prospects justify retention of the claim for periodic review and action, and, (i) the applicable statute of limitations has been